

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

CIVIL ACTION NO. 07-3343

ANGEL VARGAS, FELIX BONILLA, :
RYAN MCKENZIE, BERNARDO :
RAMIREZ and SIMON NORALES, :

Plaintiffs, :

-vs- :

MIDTOWN AIR CONDITION AND :
VENTILATION, LTD., :

Defendant. :

DEPOSITION OF

SIMON NORALES

-----X

TRANSCRIPT of stenographic notes

taken in the above matter before CHARLES P. McGUIRE, a
Certified Shorthand Reporter and Notary Public, at 521 Fifth
Avenue, New York, New York, on Wednesday, November 28, 2007,
commencing at 10:16 a.m.

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ORIGINAL

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1 Q. That's correct?

2 A. That's correct.

3 Q. Do you know how your brother-in-law knows
4 Mr. Ramirez?

5 A. No.

6 Q. How did you come to know Mr. Vargas? How
7 did you meet Mr. Vargas?

8 A. At Midtown.

9 Q. Did Vargas work for Ilya before you started
10 working for Ilya?

11 A. I work before Vargas.

12 Q. But you weren't responsible for bringing
13 Vargas to Midtown; is that right?

14 A. No.

15 Q. Do you know how Vargas came to Midtown?

16 A. Excuse me?

17 Q. Do you -- never mind. I'll withdraw that.
18 How did you meet Mr. McKenzie?

19 A. Midtown.

20 Q. Did you know Mr. McKenzie before Midtown?

21 A. No.

22 Q. I want to go back to the discussion about
23 how you first started working for Ilya.

24 How did you first meet Ilya Brodsky?

25 A. Katz Metal, the owner Katz Metal -- the Katz Metal

1 owner recommend me Ilya, to go look for job for him. No, he
2 was needing one man with -- with experience to train these
3 guys, because they don't know about sheet metal. So I asked
4 this guy if he -- he wanted me to work in the weekends. So
5 I would start working for him with the weekend, Saturdays,
6 Sundays, and the night, to take the job, with the job he was
7 missed of, because the workers, they don't know -- they
8 didn't have experience with the sheet metal.

9 So from that point, then I leave Katz and I
10 go to Midtown, because Katz -- Midtown give me a little more
11 money than Katz Metal.

12 Q. Was it called Midtown at that time?

13 A. No, it was called Ilya Mechanic. Ilya Mechanic.

14 Q. Ilya --

15 A. Ilya Mechanic.

16 Q. -- Mechanics?

17 A. Mechanics, yes.

18 Q. I-l-y-a?

19 A. Yes.

20 Q. Mechanics.

21 A. At that time, he was call it Ilya Mechanic, just
22 like that, Ilya Mechanic.

23 Q. Did he have any other employees?

24 A. Yeah -- Ilya?

25 Q. Yes, at the time you joined Ilya Mechanic,

1 were there any other employees?

2 A. Yes, there was about eight -- eight -- eight men.

3 Q. And then in 1992, you went on the payroll
4 at Ilya Mechanic; --

5 A. Yeah.

6 Q. -- is that right?

7 A. Yes, sir.

8 Q. And then in 1994, Ilya bought Midtown; is
9 that correct?

10 A. Exactly the year I don't remember right now, but I
11 think that that was the year where he bought up Midtown.

12 Q. Did your job duties change from before he
13 bought Midtown to after he bought Midtown?

14 A. I'm sorry.

15 Q. You did sheet metal work for Ilya Mechanic;
16 right?

17 A. Yes.

18 Q. And sheet metal work for Midtown?

19 A. Yes.

20 Q. Was there any difference in the work you
21 did for one company versus the work you did for the other?

22 A. No.

23 Q. Do you recall the year that you became a
24 member of Midtown -- I'm sorry. Let me rephrase that.

25 Do you remember the year that you became a

1 MR. CAPOZZOLA: Could you read the answer
2 back, please?

3 (Record read)

4 Q. Do you know whether the contract
5 established minimum hourly rates for the employees in Local
6 810?

7 A. No, sir.

8 Q. You don't know?

9 A. No.

10 Q. Mr. Norales, do you believe that Midtown
11 has violated your rights?

12 A. Yes.

13 Q. Why do you believe that?

14 A. First thing, in the money, in the hours, one day --
15 my -- my helper, he was making more money than me.

16 Q. Do you remember when that was?

17 A. Alex. Alex. His name's Alex. We call it Chacha.
18 Alex. I train him to be a mechanic, and that's that he's
19 making more money than me.

20 And then when I tell Ilya what he was
21 making more money than me, he tell me, I do whatever I have
22 to do in my shop, don't tell me what to do in my company.

23 Q. Are there any other ways that you believe
24 Midtown violated your rights?

25 A. Laid me off. Be -- all men he have in the company,

1 I was the first worker before -- than most them over there
2 now.

3 Q. Are there any other ways that you believe
4 Midtown violated your rights?

5 A. Terminate me. Terminate me for good. And I don't
6 -- I don't know why.

7 Q. Is that different from the layoffs that you
8 just described?

9 A. Yes, it's different.

10 Q. The time they terminated you, is that the
11 last layoff that we talked about earlier, I believe from Con
12 Edison?

13 A. Yes. Yes.

14 Q. So are you claiming that your layoff for
15 three weeks in 2004 --

16 A. Something like that.

17 Q. -- violated your rights?

18 A. All these layoff, I --

19 Q. I want to make sure you answer, because you
20 nodded your head. What was the answer to that question?

21 A. Oh. Sorry. I was coughing.

22 What was the question, please, again?

23 MR. CAPOZZOLA: Can you read it back,
24 please?

25 (Record read)

1 MR. CAPOZZOLA: Let me ask the question
2 again.

3 Q. Are you claiming that your layoff in 2004
4 violated your rights?

5 A. No, no, because I told him I was so tired working
6 for almost -- almost one year working, no stop. So I decide
7 with him to -- to take -- me, I got to take two weeks. We
8 talk about it. We talk about it.

9 Q. Would he have laid you off if you didn't
10 request that time?

11 A. Say the question, please?

12 Q. Do you know whether he would have laid you
13 off if you didn't ask to be laid off?

14 A. No, he no ask me. He said, We are slow. You got
15 to stay home, and we call back. He no ask me. At that
16 time, he ask me if you want to stay home for this week, two
17 weeks. All the rest, when he lay me off, he no ask me. He
18 no ask -- ask me.

19 Q. So if I understand correctly, then, the
20 2004 layoff you don't believe violated your rights; is that
21 correct?

22 A. Yes.

23 Q. The December 2003 layoff from Con Edison;
24 do you believe that that violated your rights?

25 A. Yes.

1 Q. Why do you believe that?

2 A. Because, like I said, I was the last -- I was the
3 first person before many guys there, and he laid me off.
4 There was work to do. There was work to do. He laid me
5 off. Remember that two weeks, it's not nothing to work,
6 nothing, you know, nothing there, nothing to work. That --
7 when he laid me off -- laid me off for two weeks, I
8 understand because there was no work, and there was no work.

9 Q. The 2001 layoff from Chelsea; do you
10 believe that was in violation of your rights?

11 A. Yes, sir.

12 Q. Why do you believe that?

13 A. There was a lot of work in Chelsea. I started
14 Chelsea. It was a big job. I started, I started heavy
15 things, heavy part, difficult part, I was supposed to work.
16 After I do the hard thing, somebody else, who I trained
17 them, I train them, come take this job, and he put me a
18 small job. After the two weeks I work in the small job, he
19 laid me off. And then he bring another guy to the job I
20 was, the job where he laid me off, he bring another man to
21 that job. Before I would pick up my tools from that job,
22 that man was in the job.

23 Q. When he laid you off from the small job,
24 had you finished all of the work that was to be done at that
25 small job?

1 A. No, sir.

2 Q. How much more work was there?

3 A. It was like at least another four weeks' work,
4 three weeks' work.

5 Q. Were you replaced?

6 A. Yes, sir.

7 Q. Did you file a grievance after you were
8 laid off from the small job?

9 A. With the boss?

10 Q. With your union.

11 A. No. I go talk to Ilya, and Ilya sent me to Roman.

12 Q. And what did Roman say?

13 A. First Ilya say, go to talk to the big boss, because
14 he hired me, I mean, before. He wasn't going to try. So he
15 told me, I can't do nothing, go talk to Roman. When I go
16 talk to Roman, and I say Roman, Roman, how come you are
17 taking me from Chelsea and you leave Alex? I trained Alex.
18 This is a lot of work over here. I do this most the job,
19 the hard part, I do. Why possible now you lay me off? I
20 have almost three or -- I have almost four -- four weeks'
21 unemployment, I have my family to support, and you just
22 pulled me off to put Alex.

23 And Roman said, I don't have nothing to do
24 with it. Alex, he's the mechanic now, I got to keep Alex.

25 And I trained Alex.

1 Q. Did Midtown customarily leave employees who
2 were working on projects on those projects until they were
3 finished?

4 A. No. All of them left.

5 Oh, no, no, no, he left -- he left the --
6 he left the Russian guys.

7 Q. Are there any other ways that you believe
8 Midtown violated your rights other than the -- the pay rate
9 compared to Alex, the layoffs that you just described, and
10 your termination?

11 A. He send me a note, disciplinary note, and I was
12 with somebody else, and always they did the same mistake.
13 Why just send the -- send the note to these people that was
14 signing the complaint in the Ninth Precinct?

15 Q. I don't think I understood your answer.

16 Are you saying that Midtown gave a
17 disciplinary note to the people that were involved in the
18 Ninth Precinct complaint?

19 A. Yes.

20 Q. Do you remember when that note was given?

21 A. That first note that they -- that Ilya -- I don't
22 remember when, but I was in the job I was working in
23 St. Barnabas Hospital, Long Island.

24 Q. St. Barbara's Hospital?

25 A. Yes, sir.

1 Q. Where was it?

2 A. Long Island.

3 Q. Say that again, please?

4 A. Long Island State.

5 Q. Oh, Long Island State.

6 A. Yes.

7 Q. Were there any other disciplinary notes
8 that you believe violated your rights?

9 A. Yes. Another one. He said I was telling the
10 worker to put more hours in overtime and -- and then hours
11 overtime. So increase more in overtime. I never do that.
12 For 14 year I work for Ilya, never do that.

13 Q. Are there any other notes?

14 A. Time I come in earlier, another note it was, he
15 send me a note, I came in late to St. Barnabas Hospital
16 because that first day, I lost. I don't know how to get to
17 that hospital. I get late 20 minutes. Roman, he was there,
18 my supervisor, and he told me, You late, I'm going to take
19 one hour from your salary. And he did.

20 And he send me note another day because I
21 leave early, 20 minutes early. We was working in the roof,
22 four feet of snow, and I told my workers, we got to no take
23 a lunch, we got to work straight, because our boot, it was
24 wet. We was working four feet of snow in the roof, and I
25 told the worker, Let's get out of here, because we was wet.

1 And he come back to -- to the job. And I
2 told to the steamfitter, the name Victor, that Roman, if he
3 coming, I leave early because I don't take a lunch.

4 And he send me note because that.

5 He took that hour, one hour from my salary
6 because 20 minutes late.

7 Q. Are there any other notes?

8 A. I don't remember, sir.

9 Q. Okay. So besides the difference in pay
10 compared to Alex, the layoffs, the termination, and these
11 disciplinary notes, do you believe that Midtown has violated
12 your rights in any way?

13 A. Yes, because he -- he laid me off and he keep his
14 own people. I trained them. I teach them to do the job.

15 Q. Is that different from being terminated?

16 A. I don't know. I don't understand that.

17 Q. Are there any other ways that you believe
18 Midtown violated your rights?

19 A. I don't remember now.

20 Q. Would you like to take a minute to think
21 about it?

22 A. Maybe later on.

23 Q. Okay.

24 A. Maybe later on.

25 MR. CAPOZZOLA: Go off the record.

1 Midtown discriminated against you because of your race, and
2 I'm just trying to -- I just want to make sure I apply the
3 right terminology when we're talking about it. So, you
4 know, I guess that's why I'm asking --

5 A. Okay.

6 Q. -- what is your race.

7 A. About my race. Black African -- I mean, black,
8 black and Spanish.

9 Q. Black and Spanish?

10 A. Yes.

11 Q. Were there any others of the same race at
12 Midtown?

13 A. Others?

14 Q. Other employees that were also black and
15 Spanish?

16 A. Yes. Bonilla --

17 Q. Felix Bonilla?

18 A. Felix Bonilla, Bernardo Ramirez, --

19 Q. Anyone else?

20 A. -- and -- and me. That's it.

21 Q. How do you know that Alex was paid more
22 than you were?

23 A. He told me.

24 Q. Do you remember where you were when he told
25 you?

1 Q. Did Ilya say, That's true, I am paying him
2 more?

3 A. No, he don't tell me that. He answered me just the
4 way he answered me: I do whatever I have to. This is my
5 job, don't tell me what to do in my company.

6 Q. So he never specifically told you that what
7 you were saying was correct; right?

8 A. No, sir.

9 Q. That's correct?

10 A. Correct.

11 Q. Thank you.

12 Do you know whether Alex performed any
13 roles or services that other employees didn't perform?

14 MR. WOTORSON: Objection to the form.

15 A. I don't know, sir.

16 Q. Do you know whether Alex had any skills
17 that other employees didn't have?

18 A. I don't know, sir.

19 Q. Did you file a grievance with the union
20 about Alex receiving more money than you?

21 A. No, sir.

22 Q. When you talked to Roman about what Alex
23 was making, did Roman tell you that it was true that Alex
24 was making more money than you?

25 A. He don't answer me, sir.

1 Q. Also white?

2 A. Yes.

3 Q. You told me earlier that you were laid off
4 in December '03 from the Con Edison project; right?
5 December 2003?

6 A. Yes.

7 Q. How big was this project?

8 Let me ask a better question.

9 How many employees were working on the
10 project?

11 MR. WOTORSON: Objection to form, and
12 objection on competency grounds.

13 MR. CAPOZZOLA: All right. Let me ask it
14 again.

15 Q. How many employees were working on that
16 project while you were working on it?

17 A. You're talking 2003, right?

18 Q. Yes, December 2003, I think you told me.

19 A. That was -- I got a little confused with -- with --
20 with Ilya in -- in that project, if it's the 14th Street.

21 In 14th Street, I was working with -- in
22 the Con Edison, so me and -- and -- and Felix. It was just
23 two persons. It was a small -- a small job. Not -- it was
24 a small job, for two guys. We stayed there like two months.

25 Q. What's Phillips's first name?

1 A. Felix.

2 Q. Oh. Does he have a last name?

3 A. Bonilla.

4 Q. Oh, Felix.

5 A. Yes.

6 Q. So it's you and Felix Bonilla working on a
7 project at Con Edison in December '03; right?

8 A. Yes. The year exactly, I don't remember the year,
9 but roughly, approximately.

10 Q. Approximately.

11 A. That was next to the river, the riverside -- I mean
12 the east side. That was there. We was doing a small job --
13 how we call it -- dressing room, exhaust, was making exhaust
14 in dressing room to take out heat, to take out the heat from
15 the dressing room to out. And after -- before I finished
16 that, I was supposed to make the drop, the diffusers, and
17 Roman took me from there and put -- and put Eddie with Eddie
18 Papa again. So all the jobs I was supposed to be finished,
19 to put the last little things, he took me off. If it was a
20 small job -- I mean, no more job in the company, take me
21 off, send me to employment, and put these people to work.

22 Q. Was Felix Bonilla also removed from the
23 project?

24 A. Yes.

25 Q. Do you know who replaced Felix?

1 A. These two guy, Papa -- Pilot and Papa.

2 Q. So Eddie the Pilot and Eddie Papa --

3 A. Those two.

4 Q. -- replaced you and Felix.

5 A. Yes. That's the team. Two guys. Always two guys.

6 MR. WOTORSON: I have an emergency. I need
7 to take this.

8 MR. CAPOZZOLA: Let's go off the record.

9 (Recess taken)

10 MR. CAPOZZOLA: Can you read back the last
11 question and the answer, please?

12 (Record read)

13 BY MR. CAPOZZOLA:

14 Q. Did Roman tell you why you were being
15 replaced?

16 A. No, sir.

17 Q. Did you file a grievance about this?

18 Let me ask you a better question.

19 Did you file a grievance about the fact
20 that you were laid off from this Con Edison project?

21 A. Yes.

22 Q. You did file a grievance.

23 A. I talked to Roman why he put me off of it, and he
24 said that's -- we are slow. That was the answer: We are
25 slow.

1 Q. Did you complain to your union about this?

2 A. No.

3 Q. In your last layoff, you were also at
4 Con Edison; right?

5 A. Yes.

6 Q. In White Plains?

7 A. Yes.

8 Q. What project were you working on at the
9 time of your layoff?

10 I'm sorry. Well, this was the Con Edison
11 project.

12 Who else was working on the project with
13 you?

14 A. Bernardo Ramirez.

15 Q. He was your partner?

16 A. Yes.

17 Q. Were any other partners working on it?

18 A. Only two.

19 Q. Only two people were working on the
20 project?

21 A. Yes.

22 Q. Who told you that you were being laid off?

23 A. Igor.

24 Q. What did Igor say?

25 A. Simon, you better stay home because we don't have

1 A. They don't have no work.

2 Q. So what did you do after that?

3 A. Look for job. Look for work.

4 Q. Did you ever try -- strike that.

5 After this period of two weeks during which
6 you made a lot of calls, did you ever try calling Midtown
7 again?

8 A. No.

9 Q. Do you know whether anyone replaced you at
10 the Con Edison job?

11 A. No, sir. Oh, we finished the project. I'm
12 finished the project.

13 Q. Oh, you finished the project.

14 A. Yes.

15 Q. And you weren't replaced by anyone.

16 A. No, we finished the project.

17 Q. At the time you finished the project, were
18 other employees working on other jobs?

19 A. I don't know, sir. I don't ever come back there.

20 Q. Did you know at the time you worked there
21 what other employees were working on?

22 A. At Con Edison, or in a different job?

23 Q. For instance, if you were at the Ninth
24 Precinct, working on a project, didn't you have a general
25 idea of what other projects were going on in the company,

1 Ilya bought it; right?

2 A. Yes.

3 Q. Do you know who the employees were of
4 Midtown before Ilya bought it?

5 A. Who was there in Midtown?

6 Q. Yes, who were Midtown's employees before
7 Ilya bought it?

8 A. Vargas. I think Vargas.

9 Q. Mr. Vargas?

10 A. Yeah.

11 Q. Were there any other employees of Midtown
12 that were employed before Ilya purchased it?

13 A. Yes, I remember only Vargas there.

14 Q. But you can't remember any others?

15 A. I remember Mr. Vargas. It was Vargas, employed
16 before me. When Ilya bought Midtown, Vargas was there
17 already. That's all I remember. Because he was a -- he was
18 a steamfitter, and I was doing ductwork, so it was a
19 different -- different type of the work we do. After, he --
20 he -- he came to be sheet metal guy, sheet metal work.

21 Q. You told me earlier about some disciplinary
22 notes.

23 A. Yes.

24 Q. Did these notes --

25 MR. WOTORSON: Objection to form.

1 I'm only objecting to the use of the phrase
2 "disciplinary notes."

3 Q. Did Midtown ever cut your salary -- or --
4 strike that.

5 Did Midtown ever reduce your salary?

6 You told me about one occasion where they
7 docked you of an hour's work; correct?

8 A. Yes.

9 Q. Did they ever deduct you any other hours
10 worked?

11 A. No.

12 Q. Did these disciplinary notes affect your
13 salary?

14 A. No, sir.

15 Q. Did they affect the number of hours that
16 you worked during the week?

17 A. Only one, where he deduct my one hour from me.

18 Q. Aside from that, though, --

19 A. No.

20 Q. -- they didn't have any impact; correct?

21 A. No, sir.

22 Q. That's correct?

23 A. That's correct.

24 Q. Did these disciplinary notes affect your
25 job duties in any way?

1 A. If they affected me during my job now?

2 Q. Did your job duties change as a result of
3 these notes?

4 A. Right now? Or --

5 Q. No, while you were still employed with
6 Midtown.

7 A. They don't affect me.

8 Q. So these notes didn't really affect your
9 employment; is that correct?

10 A. No.

11 Q. That's correct? No --

12 A. Well, emotionally, they affect me, but they don't
13 affect what I have to do in my job.

14 Q. Right. So would you say it didn't affect
15 the terms and conditions of your employment?

16 A. No, I do whatever always I do whenever I have to
17 do, and what I -- what I do, come early, calling them, they
18 don't affect me. But emotionally it affect me, because I
19 don't do what they think I do.

20 Q. Do you believe that your layoff from
21 Con Edison in -- well, the last layoff, do you believe that
22 was caused by your complaint to the Department of Labor?

23 A. Yes.

24 Q. Did you make a complaint to the Department
25 of Labor?

1 A. No, sir.

2 Q. Did you ever speak to a representative of
3 the Department of Labor?

4 A. No, sir.

5 Q. Did a representative from the Department of
6 Labor ever come to the Ninth Precinct?

7 A. No.

8 Q. What about the New York City Comptroller's
9 Office?

10 A. Yes.

11 Q. Did you make a complaint to the New York
12 City Comptroller's Office?

13 A. After they lay me off, or before?

14 Q. Before.

15 Let me withdraw the question.

16 Will you look back at your complaint again,
17 please?

18 (Noraes Exhibit 2 was placed before the witness.)

19 Q. Can you look at page nine?

20 Paragraph e states: "An Inspector from the
21 New York City Comptrollers Office visited the site on June
22 2005. Simon Noraes spoke with the inspector and the
23 inspector told plaintiff that he was being underpaid."

24 Is this paragraph true?

25 A. Yes, that's true.

1 Q. Do you remember the name of the inspector?

2 A. There was two guys, but I can't remember names. I
3 don't remember the name now.

4 Q. Were they men or women?

5 Were they men or women?

6 A. Yes, one man and one -- one woman.

7 Q. Did they come to the Ninth Precinct before
8 or after you were sent to the Mt. Kisco project?

9 A. Well, they came -- they came three or one week
10 before I came for vacation. But they came, and I was there.
11 After -- after we came from vacation, they come. They spoke
12 to -- to the project -- the Ninth Precinct, the construction
13 guy, the manager of construction, who have the -- all the --
14 the super, we call it the supervisor --

15 Q. The general contractor?

16 A. The general contractor, right. They talk to him,
17 and they ask if all these guys, all these workers in the
18 project, they have the salary, whatever the Comptroller of
19 the City have to pay them. And then he -- he started
20 looking for the list where we sign, and then he see me down
21 there, and he started looking for people from Midtown lines,
22 and then he go to my trailer, where I have my office, and
23 then he -- he saw a couple of check payment, so we got paid
24 Monday. He saw that in the table, in my table. And from
25 that point that he saw it, we not was making the money what

1 we supposed to make.

2 And he started questioning me. And he
3 showed me something like a badge, like a cop. And from
4 there, I call all the rest the guys, and we started talking
5 about what we make, how much the money was, the salary, how
6 many hour we make, all this stuff like that.

7 Q. You said this was within a week of your
8 returning from vacation?

9 A. Yes, sir.

10 Q. What vacation was that?

11 A. Work vacation.

12 Q. Do you remember the date?

13 A. I don't remember the date, but it was in June --
14 June or July, something like that. I was came from
15 vacation.

16 Q. June or July of 2005?

17 A. Yes. Yes, I came from vacation. I remember that.

18 Q. The first time that an investigator showed
19 up at the Ninth Precinct, was there one or two of them?

20 A. Two.

21 Q. Did they take a written statement from you
22 on the first date?

23 A. No.

24 Q. They spoke to you, though; right?

25 A. Yes.

1 Q. Did they speak to anyone else?

2 A. They speak to Vargas; they speak to Tony, a
3 steamfitter; Deon, a steamfitter, work for Midtown, too.
4 Deon. He worked for Midtown, but he's not type sheet metal.
5 Steamfitter. And they speak to all these guys. The rest of
6 them I forgot.

7 Q. Did they speak to Bonilla?

8 A. Speak to Bonilla, too. He was there, he speak to
9 me when he was there. He was -- Bernardo was there, too.
10 He was -- Eddie Pilot, he was there. Papa, he was there.
11 Alex Chacha, he was there.

12 Q. What about Ryan McKenzie?

13 A. Ryan McKenzie was there, too.

14 Q. So after this visit, when was the next time
15 you had any discussions with the Comptroller's Office?

16 A. I told him I was supervisor, Roman, he was not
17 there, and we can't -- we can't take a decision from
18 nothing.

19 And then he asked with others our company
20 and how we can -- how he can meet Roman. And he come back
21 another -- another two days, three days, something like
22 that, later.

23 Q. Did you talk to Roman about your first
24 discussion with the --

25 A. Yes, sir.

1 Q. -- inspector?

2 A. Yes, I talked to him.

3 Q. What did you tell him?

4 A. I told him, Roman, it is the inspector here for the
5 City, and they were show us paper, we was making less money
6 we're supposed to make. I don't want to say nothing to
7 them, but if you can fix this payment for us -- to us to
8 cover the rest of the money what we supposed to make and we
9 don't -- we don't have to -- we don't have to sign or -- or
10 talk to this guy because this guy, he say my tap to my back.

11 And Roman answer me, I don't know, I can't
12 answer you, because this guy just a foolish -- you know,
13 just like that. They come over here, try to do this. We
14 don't -- we don't go with that. We don't go with whatever
15 they do. We don't go with that.

16 So I say, Okay, fine.

17 Q. So he said he would come back a couple days
18 later, --

19 A. Yes.

20 Q. -- the inspector?

21 A. Yes.

22 Q. Did he?

23 A. Yes, they come back, yes.

24 Q. Is this the next time you saw them?

25 A. Yes. All the rest the time, the payments, that we

1 Q. Do you recall who gave this memo to you?

2 A. This memo, I think, so -- I saw this memo the day
3 we have the meeting. I saw in the -- in the -- in the
4 computer screen, in the computer screen. So I say myself,
5 Why they put this memo to everybody see, this memo, this
6 computer screen?

7 And we have the meeting. I asked the guy,
8 and he told me, Ilya told me to send it to you.

9 I never spoke to no one to take hour extra
10 for the overtime, and I don't talk to no one, no one about
11 this.

12 Q. According -- it says in the memo, and I'm
13 reading from it now: "This is to inform you that the
14 overtime hours that were reported to your foreman, Igor
15 Sinayuk, for the week January 9, 2006 were not accurate. In
16 fact they were inflated by 3 hours as your own written
17 record indicated. The reported hours to your foreman were
18 16 hours and the actual time worked was 13 hours." When you
19 have confirmed only after your foreman requested a detailed
20 description -- I misread that. It says: "Which you had
21 confirmed only after your foreman requested a detailed
22 description of overtime work in writing. This type of
23 behavior is completely unacceptable and will not be
24 tolerated."

25 It says here in the memo that you reported

1 16 hours, and the actual time worked was 13. Are you saying
2 that's not true?

3 A. That's not true, sir.

4 Q. Did you report 16 hours?

5 MR. WOTORSON: Objection to form.

6 A. I not remember how many hours I report, sir. I
7 didn't report 16 hours.

8 Q. You didn't report 16 hours?

9 A. I don't remember. But I don't do this. I don't
10 call anyone for more hours.

11 Q. Did you talk to anyone about this memo?

12 A. No, sir.

13 Q. Did you talk to anyone about the fact that
14 Midtown believed you inflated your hours by three hours?

15 A. No, sir.

16 Q. You never talked to anyone about that?

17 A. I don't -- I don't put interest in them because I
18 don't -- I don't -- I don't call for more hours.

19 Q. Did you know when you received this that
20 Midtown believed you worked three hours more than -- pardon
21 me -- that you claimed three hours more than you had worked?
22 Did you know that was Midtown's belief?

23 A. If he didn't believe me?

24 I don't understand.

25 Q. When you received this memo on February

1 2nd, 2006, did you know that Midtown thought you reported
2 more hours than you worked?

3 A. I don't -- I don't know because I never -- I never
4 reported more hours than what I worked. I don't know,
5 because I never reported more hours what I worked.

6 Q. It seems from this document, Mr. Norales,
7 that Midtown thought you did; and I'm wondering whether you
8 talked to anyone at Midtown about that.

9 A. No, I talked to nobody about it.

10 Q. What project were you working on in January
11 2006?

12 A. I don't know, sir, why they were sending me that.
13 I don't know which project was that.

14 Q. Do you remember your foreman requesting a
15 description of your overtime work?

16 A. No, sir, I don't remember.

17 MR. CAPOZZOLA: Let's mark this as Norales
18 13.

19 (Exhibit Norales 13 marked for identification)

20 Q. Have you ever seen this document before?

21 A. Yes, I saw, yes.

22 Q. Can you tell me what it is?

23 A. It's about leaving from the job, so we have to call
24 them from -- before we leave.

25 Q. This memo's dated February 10, 2006;

1 Q. Did you call anyone before you decided to
2 leave?

3 A. Yes, sir, I called Roman, but he don't answer the
4 radio.

5 Q. Did you call anyone at -- did you call the
6 office?

7 A. No, I don't call the office. Office say, Call
8 Roman. Any time called to office, anything: Call Roman.

9 Q. So you didn't think it would be useful to
10 call the office; is that what you're saying?

11 A. I call Roman, and when I call Roman, he don't
12 answer me.

13 Q. Does Roman have voicemail, or is it just
14 the radio?

15 A. Just the radio. Just the radio.

16 Q. Did you ever call out that day?

17 A. Call out?

18 Q. Did you ever call anyone --

19 A. No. No, I don't call no one.

20 Q. Did you ever speak to Roman that day?

21 A. No.

22 Q. The memo says: "On February 15, 2006,
23 Roman visited St. Francis Hospital at 3:00 p.m. to explain
24 the scope of the job for the following morning but you had
25 already left the site. Yet you called in at 3:36 to call

1 out, once again you are supposed" to "call-out while you are
2 still at the job site not once you left. You had left the
3 job early and called as though you had worked a full day."

4 So it says here that you called at 3:36.

5 Did you call at 3:36?

6 A. Yes, I called 3:36, yes.

7 Q. Who did you call?

8 A. I called Roman.

9 Q. So you called Roman at 3:36.

10 A. Yes.

11 Q. Well, what did you say?

12 A. I left for the job at three o'clock because the
13 snow was -- so much snow upstairs, and it was wet. We was
14 working four foot of snow. Roman -- and we don't take a
15 lunch, we work straight to get off from there because
16 already our boots was wet. And he don't -- he don't want an
17 excuse. He said, That's not an excuse, you're supposed to
18 be there at 3:30. So...

19 Q. The next paragraph in the memo reads: "In
20 addition you had stated that you left early because you did
21 not have lunch. Other parties on the job side had attested
22 that you indeed took lunch."

23 So according to this memo, someone at the
24 job site said that you took lunch.

25 Do you still say that you didn't take any

1 lunch?

2 A. I don't take lunch that day. I came early, I don't
3 take a lunch.

4 Q. Did anyone else that day?

5 A. In the job?

6 Q. Yes.

7 A. It was Victor, the guy, I told him, Tell Roman if
8 he come I don't took a lunch, that's why we leave early. It
9 was Victor, the steamfitter guy, worked for Midtown, too.

10 Q. Who else did you leave with at three
11 o'clock that day?

12 A. We leave, Bernardo, --

13 Q. Who else?

14 A. -- Angel Vargas, and me.

15 MR. CAPOZZOLA: Let's mark this as Norales

16 16.

17 (Exhibit Norales 16 marked for identification)

18 Q. Have you ever seen this document before?

19 A. Yes.

20 Q. Can you tell me what it is?

21 A. This is the school we work in Brooklyn.

22 All right.

23 Q. Did you prepare this document?

24 A. No, sir.

25 Q. Do you know who did?

1 hours?

2 A. No, sir.

3 Q. Do you believe that Midtown owes you wages
4 for public works jobs that you didn't get paid?

5 A. Yes, I believe.

6 Q. Why do you believe that?

7 A. I worked for a couple of Federal jobs, a school
8 job.

9 Q. Do you believe you're entitled to wages
10 based on the Ninth Precinct?

11 Are you claiming that Midtown still owes
12 you money in connection with the Ninth Precinct job?

13 A. Yes.

14 Q. You testified before that you received a
15 check from the city; correct?

16 A. No, I don't testify. If I testified over here,
17 like this?

18 Q. Yes.

19 A. No.

20 Q. You told me earlier that you received a
21 check from the New York City --

22 A. Yes.

23 Q. -- Comptroller; correct?

24 A. Yes.

25 Q. And that check was to cover your work for

1 the Ninth Precinct job; right?

2 A. Yes, only for Ninth Precinct, yes.

3 Q. So are you claiming that you should still
4 get additional wages for the Ninth Precinct job?

5 A. Yes, sir.

6 Q. Why do you believe you're still entitled to
7 wages for the Ninth Precinct job?

8 A. When we sent the complaint to -- to the -- when we
9 sent the complaint -- when we talk about the complaint, the
10 inspector, he tell us we have to go back, five years back.
11 So we try to get all these projects. The city projects, we
12 work, we give it to them, all these papers, and he never --
13 they never said nothing about it. Yet he take care of the
14 Ninth Precinct. I work in -- in Lincoln Hospital, I work in
15 Metropolitan Hospital, I work in Harlem Hospital, I work in
16 181 Fire Department.

17 Q. When did you work on the Fire Department?

18 A. Forgot the date, sir. I don't remember the year
19 today now.

20 Q. Was it in the 1900's or the 2000's?

21 A. 2000's.

22 Q. What about Harlem Hospital?

23 A. 90's.

24 Q. What about Metropolitan Hospital?

25 A. 90's.

1 Q. And Lincoln Hospital?

2 A. 90's.

3 Q. Were there any other jobs that you feel
4 you're entitled to -- I guess -- were there any other public
5 works jobs you worked on?

6 A. Outside of New York, or inside?

7 Q. In the State of New York.

8 A. I don't remember any right now.

9 Q. So at this point, all you could remember is
10 the 181 Fire Department?

11 A. Yes.

12 Q. And you believe you're entitled to wages
13 based on your work there?

14 A. Yes.

15 Q. Do you know how long you worked at 181 Fire
16 Department?

17 A. Four months.

18 Q. Four months?

19 A. Yes.

20 Q. Did you talk to the inspectors about your
21 181 Fire Department work?

22 A. Yes.

23 Q. What did they say?

24 A. They sent -- they -- they tell us send the -- the
25 paycheck and that's -- copy for the paycheck. That's what

1 we sent to them. And then they would say nothing about it.

2 Q. So the Department of Labor -- or the New
3 York City Comptroller didn't do anything with it?

4 A. They don't do nothing.

5 In the Chelsea, I was nine months in
6 Chelsea.

7 Q. What was Chelsea? A school?

8 A. Yes. Yes, a school.

9 Q. Were there any others beside Chelsea and
10 the 181 Fire Department?

11 A. I not remember right now.

12 Q. Did you tell the inspector about the
13 Chelsea school as well?

14 A. Yes, sir, I told him.

15 Q. The Chelsea school is 2001; is that right?

16 A. 2001. Yes. 2002. For 2001, we started -- I
17 started for 2001. We started 2001, in the summer, it was in
18 June or September.

19 Q. And it continued until 2003?

20 A. Yes.

21 Q. Do you have any documents relating to your
22 time at 181 Fire Department?

23 A. No, sir.

24 Q. How about your time at Chelsea?

25 A. Yes.

1 Q. You have documents? Did you provide them
2 to your lawyer?

3 A. Yes.

4 Q. Is that what I provided you earlier?

5 A. Yes.

6 Q. Do you have any other documents besides
7 those?

8 A. No.

9 Q. Did you ever see a swastika painted onto --
10 or maybe not painted, but somehow applied to a piece of
11 ductwork or sheet metal?

12 A. I don't get it.

13 Q. Do you know what a swastika is?

14 A. No.

15 Oh, that happened at Ninth Precinct. Yeah,
16 that was the --

17 MR. CAPOZZOLA: Let's mark this as Norales
18 17.

19 (Exhibit Norales 17 marked for identification)

20 Q. I just handed you a document which contains
21 two photographs. They're kind of blurry, but I think you
22 can make out an image of a swastika that appears to be on
23 some sheet metal.

24 Have you ever seen this before?

25 A. Yes.

1 Q. Did you ever file a grievance with your
2 union at any time about Midtown?

3 A. Only after this happened in Ninth Precinct, I go
4 talk to John, he was our delegate, because February, they
5 terminate me, and 21 in February, for my benefits for our
6 810. But I was working in March, where I go to -- where I
7 go to end of the month's, February, end of the month's, to
8 appointment, and I was there. I was working, I was still
9 working in Midtown. So I don't know then why then they
10 terminate me if they didn't take money for me to pay my dues
11 in my local.

12 That's only one part of it.

13 Q. I don't understand what you told me. Are
14 you saying that -- that while you were still employed with
15 Midtown, they stopped paying your dues?

16 A. Yes, sir.

17 Q. What did the union person say back?

18 A. I got to talk to union about. After that, we find
19 in the computer I was terminated, they no can do nothing.
20 If you have to -- I want to continue my benefits, I have to
21 pay them for my pocket.

22 Q. So the union officer required you to pay
23 your dues to continue your benefits; is that correct?

24 A. He was asking me to pay it, but I don't have no
25 money, I don't have no work.